

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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J.B. on behalf of K.B.,

ANSWER

Plaintiffs,

08 CV 1212 (LAP)

--against--

New York City Department of Education,

Defendant.

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Defendant New York City Department of Education (“NYC DOE” or “DOE”), by its attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, as and for its Answer to the Complaint, respectfully alleges as follows:

1. Denies the allegations set forth in paragraph “1” of the Complaint, except admits that plaintiffs purport to proceed as set forth therein, and respectfully refers the Court to the statutory authority cited and referred to therein for a complete and accurate statement of its contents.
2. Denies the allegations set forth in paragraph “2” of the Complaint.
3. Denies the allegations set forth in paragraph “3” of the Complaint, except admits that plaintiffs purport to invoke the jurisdiction of the Court as alleged therein.
4. Denies the allegations set forth in paragraph “3” of the Complaint, except admits that plaintiffs purport to set forth a basis for venue as alleged therein, admits that defendant has offices located in this district, and denies knowledge or information sufficient to form a belief as to the location of plaintiffs’ residence.

5. Denies the allegations set forth in paragraph “5” of the Complaint, except admits, upon information and belief, that K.B. is the son of plaintiff J.B., and denies knowledge or information sufficient to form a belief as to K.B.’s diagnosis.
6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “6” of the Complaint, except admits, upon information and belief, that J.B. is the mother of K.B.
7. Denies the allegations set forth in paragraph “7” of the Complaint, except admits that plaintiff purports to proceed as set forth therein, and respectfully refers the Court to the statutory authority cited therein for a complete and accurate statement of its contents.
8. Denies the allegations set forth in paragraph “8” of the Complaint.
9. Denies the allegations set forth in paragraph “9” of the Complaint, except admits that plaintiffs initiated an administrative due process proceeding against defendant in August of 2004, and respectfully refers the Court to the plaintiffs’ due process demand for a complete and accurate statement of its contents.
10. Denies the allegations set forth in paragraph “10” of the Complaint, except admits, upon information and belief, that an impartial hearing was held in this matter, and denies knowledge or information sufficient to form a belief as to who represented plaintiffs throughout the proceeding.
11. Denies the allegations set forth in paragraph “11” of the Complaint, except admits that DOE did not appeal the administrative decision in Case No. 55696, and respectfully refers the Court to the Impartial Hearing Officer’s Findings of Fact and Decision dated July 31, 2006 for a complete and accurate statement of its contents.
12. Denies the allegations set forth in paragraph “12” of the Complaint.

13. Denies the allegations set forth in paragraph "13" of the Complaint.
14. Denies the allegations set forth in paragraph "14" of the Complaint.

FIRST AFFIRMATIVE DEFENSE:

15. The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE:

16. At all times relevant to the acts alleged in the Complaint, the conduct of defendant was lawful.

THIRD AFFIRMATIVE DEFENSE:

17. Some or all of plaintiffs' claims are barred by the applicable statute of limitations.

FOURTH AFFIRMATIVE DEFENSE:

18. Plaintiffs have failed to provide documentation and information sufficient to support an award of reasonable attorney's fees.

FIFTH AFFIRMATIVE DEFENSE:

19. Plaintiffs lack standing to assert the claims alleged in the Complaint.

WHEREFORE, defendant requests judgment dismissing the complaint and denying all relief requested therein, together with such other and further relief as the Court deems just and proper.

Dated: New York, New York
March 26, 2008

MICHAEL A. CARDOZO
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By: _____ /S/
Abigail Goldenberg (AG 4378)
Assistant Corporation Counsel

To: Gary S. Mayerson, Esq., by ECF
Mayerson & Associates
Attorney for Plaintiffs